

JURISDICTION:
General Reference:

NEW JERSEY
New Jersey Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

- I. When a passenger automobile¹ is being operated, the driver and each front seat passenger shall wear a safety seat belt. §39:3-76.2f(a)
- II. When a front seat passenger is ≥5 but <18 years, the driver shall secure such passenger in a safety seat belt. §39:3-76.2f(b)
- III. Each passenger, who is riding in a **school bus** equipped with safety belts, shall wear such a belt when the vehicle is in operation.² §39:3B-11

Sanctions for Failure to Use or
Require the Use of Safety Belts³:

- I. A violation of either I or II above: A fine of **\$20**. Note: Neither driver licensing nor automobile insurance eligibility points are assessed against a driver's record for a violation of the requirements in I or II above. In addition, a person is not subject to a surcharge under the merit rating plan (§17:29A-35). §39:3-76.2j
- II. A violation of III above: Imprisonment for not more than **30 days** and/or a fine of not more than **\$50**. §39:3B-6
- III. **One dollar (\$1)** is add to any fine for the Body Armor Replacement Fund and \$1 is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

Effect on Civil Liability:

- I. The failure to wear a safety belt is not considered contributory negligence to the extent that such non use would be a bar to recover damages in a traffic accident. However, such non use can be used to reduce damages provided in can be determined that the damages to be reduce could have been avoided by using a safety belt. *Waterson v. General Motors Corp*, 544 A.2d 357 (N.J. 1988)⁴

Required Use of Safety Belts: (continued)

Effect of Civil Liability: (continued)

- Note: The law establishing these seat belt use requirements does not alter existing law with respect to the trial of a civil action for damages for personal injuries or death sustained in a motor vehicle accident. §39:3-76.2h
- II. **School Bus.** Statutory law specifically provides that a school bus

¹**Exemptions.** The requirement to use a safety seat belt does not apply in the following circumstances: (1) To persons operating or riding in a passenger automobile manufactured before July 1, 1966 or where such vehicle does not have to have safety seat belts under Federal law; (2) to persons who are unable to wear a safety seat belt for physical or medical reasons; (3) to rural letter carriers of the U.S. Postal Service while performing official duties; and, (4) to "[a] passenger automobile which was originally constructed with fewer safety seat belts systems than are necessary to allow the passenger to be buckled." §39:3-76.2g Note: A "passenger automobile" is defined as any automobile "used and designed for the transportation of passengers, other than omnibuses and school buses." In addition, for the purposes of the safety belt use law, a "passenger automobile" also means a van, a pick-up truck or a utility vehicle. An "automobile" is defined as any motor vehicle except a motorcycle. And, a "motor vehicle" is defined as any vehicle "propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles." §§39:1-1 & 39:3-76.2f

²The law does not specify who is liable (operator or passenger) if a passenger is not in compliance with this requirement.

³**Licensing or Vehicle Registration Action.** A persons's license or their vehicle's registration certificate may be suspended or revoked (for an indefinite period of time) under general provisions of the law which allow the driver licensing agency to take such action when a person has violated the traffic laws (i.e., any provision of Title 39, Motor Vehicle and Traffic Regulation). §§39:5-30 & 39:5-31 Note: All of the provisions, concerning vehicle occupant protection (e.g., safety belt usage, child passenger protection, motorcycle helmets, et al.), are codified in Title 39.

⁴Evidence of safety belt non-use to reduce damage awards may be limited in cases where the injured party has consumed alcoholic beverages to the point of intoxication. Under such circumstances, the injured party may not understand the dangers associated with not using a safety belt. *Petitto v. Sands Hotel & Casino, Inc.*, 672 A.2d 253 (N.J. Super. Ct. 1996)

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owner or operator is not liable for the injuries sustained by a passenger who fails to either use or properly wear a safety belt when use of such belts is required. §39:3B-11

Required Use of Child Safety Restraint Systems:

Requirements:

A person, transporting a child <5 years old in a motor vehicle⁵, shall secure such child in a Federally approved child passenger restraint system. Notwithstanding this requirement, a child ≥18 months but <5 years may be secured in a safety belt in the rear seat. However, if the vehicle has no rear seats, the child must be secured in a child restraint system.⁶ §39:3-76.2a **School Bus.** A child, who is riding in a school bus equipped with safety belts, must be secured in a Federally approved child restraint system. §39:3B-11 Note: This statutory provision does not provide for either age or weight limitations related to child restraint usage.

Sanctions for Failure to Require the Use of Child Restraint Systems³:

- I. A fine of not less than **\$10** nor more than **\$25**. §39:3-76.2d Note: The law does not appear to assign points for a violation of this requirement.
- II. **School Bus.** For a violation of the requirement to use a child restraint device on a school bus, a person is subject to an imprisonment term of not more than 30 days and/or a fine of not more than \$50. §39:3B-6
- III. **One dollar (\$1)** is add to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

Effect on Civil Liability:

In no event shall the failure to wear a child passenger restraint system be considered as contributory negligence, nor shall the failure to wear such a system be admissible as evidence in the trail of any civil action. §39:3-76.2a **School Bus.** Likewise, a school bus owner or operator is not liable for the injuries sustained by a child who was not using a child restrained device when such use is required by law. §39:3B-11

⁵This requirement only applies to persons who are operating motor vehicles that are equipped with safety belts. §39:3-76.2a Note: See Footnote No. 1 for a definition of "motor vehicle."

⁶If the number of children <5 years old exceeds the number of available safety belts, unrestrained children must ride in the rear seat of the vehicle. §39:3-76.2b

Required Use of Motorcycle Protective Headgear⁷:

Requirements:	A person operating or riding on a motorcycle ⁸ must wear a State approved protective helmet. §39:3-76.7(a)
Sanctions for Failure to Use ³ :	<p>I. A fine of not more than \$25. §39:3-79 Note: No points are assessed against a person's driving record for a violation of this requirement. §39:3-76.7(b)</p> <p>II. One dollar (\$1) is add to any fine for the Body Armor Replacement Fund <u>and</u> \$1 is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)</p>

Required Use of Motorcycle Eye Protection Device⁹:

Requirements:	No person shall operate a motorcycle ⁶ unless they wear State approved goggles or a face shield. §39:3-76.8
Sanctions for Failure to Use ³ :	<p>I. A fine of not more than \$25. §39:3-79 Note: The law does not appear to assign points for a violation of this requirement.</p> <p>II. One dollar (\$1) is add to any fine for the Body Armor Replacement Fund <u>and</u> \$1 is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)</p>

Required Use of Bicycle Protective Headgear¹⁰:

⁷Under separate provisions of law, a motorcycle operator is responsible for making sure that a motorcycle passenger wears a helmet while riding either in an astride position or in a sidecar. An operator, who fails to comply with this requirement, is subject to a fine of not less than **\$50** nor more than **\$100**. §39:3-76.5a

⁸The term "motorcycle" does not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering. §§39:3-76.7 & 39:3-76.8

⁹A motorcycle operator does not have to comply with this requirement if the motorcycle is equipped with a State approved wind screen. §39:3-76.9

¹⁰**Exemptions.** Via municipal ordinances, a person may be exempt from using a bicycle helmet under the following circumstances: (1) Where the bicycle is being operated on a road or highway that is closed to motor vehicle traffic and is limited only to pedestrian or bicycle traffic or only during specified periods of time during which bicycles may be used; and, (2) where a bicycle is being operated on a trail, route, course, boardwalk, path or other area which has been set aside for pedestrian or bicycle use. However, such exemption shall not be granted

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Requirements:

A person <14 years old shall neither operate nor ride on a bicycle unless they are wearing a nationally approved bicycle helmet. This requirement includes persons who are riding on a bicycle while in a restraining seat or in a trailer being towed by the bicycle. §39:4-10.1(a)

Sanctions for Failure to Use:

I. A person <14 years old who violates this provision is given a

Required Use of Bicycle Protective Headgear: (continued)

when such trail, route, course, boardwalk, path or other area is immediately adjacent to a road or highway used by motor vehicle traffic and where there is no barrier of sufficient height and rigidity to prevent the inadvertent or deliberate entry of a bicycle on such road or highway. §39:4-10.1(c)

Sanctions for Failure to Use: (continued)

warning citation.¹¹ §39:4-10.2(a)

II. If it can be proven that a parent or legal guardian failed to exercise reasonable supervision or control over such person to insure that they comply with this requirement, such parent or legal guardian may for a 1st offense be subject to a fine of not more than **\$25** and for a subsequent offense be subject to a fine of not more than **\$100**.² §39:4-10.2(a)

III. **One dollar** (\$1) is add to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. No person shall ride on and no operator shall knowingly allow a person to ride on a vehicle or any part of a vehicle that is not designed or intended for passenger use. §39:4-69¹²

II. No person shall ride upon the rear end of a vehicle, without the consent of the driver, and when so riding, no part of the person's body shall protrude beyond the limits of the vehicle. §39:4-61

Sanctions for a Violation³:

I. An imprisonment term of not more than **15 days** and/or a fine of not more than **\$50**. §39:4-203 Note: The law does not appear to assign points for a violation of these requirements.

II. **One dollar** (\$1) is add to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

Exemptions:

The requirement in I does not apply to an employee engaged in the necessary discharge of a duty. §39:4-69

¹¹Under separate provisions of law, a violator may be subject to a fine of not more than **\$10**. §39:4-203.3

¹²A New Jersey appellate court has held that this provision prohibits a person from riding in the bed of a pickup truck. *Lombardo v. Hoag*, 634 A.2d 550 (N.J.Super.A.D. 1993) (Petition for certification was denied by the N.J. Supreme Court, 640 A.2d 850 (N.J. 1994).)